

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

MidAmerican Energy Company)	
Nicor Energy, L.L.C.)	
AES NewEnergy, Inc., and the)	
National Energy Marketers Association)	
)	Docket No. 02-0290
Request for Expedited Rulemaking)	
Regarding Telephonic and Internet)	
Enrollment Procedures Consistent with)	
§ 2EE of the Consumer Fraud and)	
Deceptive Business Practices Act)	

**INITIAL COMMENTS OF PEOPLES ENERGY SERVICES CORPORATION
ON REQUEST FOR EXPEDITED RULEMAKING**

Peoples Energy Services Corporation (“PE Services”) submits its Initial Comments of Peoples Energy Services Corporation on Request for Expedited Rulemaking (“Initial Comments”) pursuant to the Administrative Law Judge’s schedule in the above-referenced docket. PE Services has reviewed both MidAmerican Energy Company, Nicor Energy, L.L.C., AES NewEnergy, Inc., and the National Energy Marketers Association’s (“Petitioners”) Request for Expedited Rulemaking Regarding Telephonic and Internet Enrollment Procedures Consistent with § 2EE of the Consumer Fraud and Deceptive Business Practices Act (“Request for Rulemaking”) and a draft of Petitioners’ comments and concurs with and supports Petitioners’ positions in both documents. PE Services submits these Initial Comments for two purposes. First, the proposed rule as drafted should be amended to allow, but eliminate the necessity for, third party verification. Finally, PE Services recommends a few editorial changes to the draft rules. PE Services requests that the Administrative Law Judge adopt PE Services’ comments in preparing the proposed rules for submission to the Commission in adopting the First Notice Order.

With respect to third party verification, PE Services strongly believes the rule should allow the method as an option but not as a requirement for two reasons. First, third party verification has a cost but no associated benefits. Petitioners' proposed telephonic enrollment rule includes safeguards that alleviate the need for third party verification. In Section 2(b), the rule requires RES's to maintain a date and time stamped audio recording of all telephonic enrollments. In Section 2(c), the rule requires that the audio recording be retained for at least two years (2(c)(ii)), and that the RES be able to provide a transcript and copy of the audio recording to the Commission and customer's local distribution company upon request (2(c)(iii)). Meeting the strict recording and archiving rule with a third party provider offers no benefit over allowing the RES to perform the same steps with its own employees and equipment.

The other reason the Commission should not impose the regulatory burden of third party verification on a RES is that experience in the gas industry shows it is not necessary. The Commission recently approved telephonic enrollment in the gas choice pilot programs of Nicor Gas, Peoples Gas and North Shore Gas. [*Northern Illinois Gas Company d/b/a Nicor Gas Company*, Docket Nos. 00-0620/0621, 214 P.U.R. 4th 43 (July 5, 2001); *The Peoples Gas, Light and Coke Company*, Docket No. 01-0470, "Order" (March 5, 2002); and *North Shore Gas Company*, Docket No. 01-0469, "Order" (March 5, 2002)]. None of those orders requires third party verification. Third party verification offers no additional protection to customers and therefore should be optional at the RES' choice.

PE Services' suggested changes to the Request for Rulemaking, follow in legislative format.

TELEPHONIC ENROLLMENT RULES

1. Definitions

- a. "Act" means the Public Utilities Act [220 ILCS 5].
- b. "Alternative retail electric supplier" or "ARES" has the same meaning as in Section 16-102 of the Act [220 ILCS 5/16-102].
- c. "Commission" means the Illinois Commerce Commission.
- d. "Electric Utility" has the same meaning as in Section 16-102 of the Act [220 ILCS 5/16-102].
- a.e. "Retail Customer" or ("Customer)" shall have the same meaning as that stated in Section 16-102 of the Public Utilities Act [220 ILCS 5/16-102].
- b.f. "Retail Electric Supplier" or ("RES)" shall mean either: (i) an Alternative Retail Electric Supplier (ARES) certified by the ICC pursuant to Section 16-115 of the Public Utilities Act (220 ILCS 5/16-115), meeting all obligations of ARES pursuant to Section 16-115A of the Public Utilities Act ([220 ILCS 5/16-115A]), and authorized to provide electric power and energy supply services in an LDC's electric utility's service territory; or (ii) an Illinois electric utility as defined in Section 16-102 of the Public Utilities Act (220 ILCS 5/16-102) meeting all obligations provided in Section 16-115A and 16-116 of the Public Utilities Act [(220 ILCS 5/16-115A, 220 ILCS 5/16-116)], other than the local LDC electric utility.
- c. "Independent Third Party" shall mean (i) any third party not owned, managed, controlled, or directed by the RES or the RES's marketing agent; (ii) who does not have any financial incentive to verify provider change orders; and (iii) who operates in a location physically separate from the RES or the RES's marketing agent.
- d.g. "Telephonic Enrollment" means any electronic recording of a Customer's authorization to change electric service providers, which satisfies the disclosure requirements of the Letter of Agency prescribed in Section 2EE of the Consumer Fraud and Deceptive Business Practices [815 ILCS 505/2EE].
- e.h. "Telephone Solicitation" shall mean any communication through the use of a telephone by live operators for soliciting the sale of goods or services and as defined in Section 5 of the Telephone Solicitations Act [(815 ILCS 413/45)].

2. Telephone Solicitations and Telephonic Enrollments

- a. All telephone solicitations for competitive electric service shall be made pursuant to state and federal law.
- b. For all telephonic enrollments, a RES shall maintain a date and time stamped audio recording, verifying, at a minimum, the following:
 - i. Identity of the RES and purpose of call;
 - ii. Statement and the Customer's acknowledgment that the call is being recorded;
 - iii. Question and the Customer's acknowledgement that they are the customer of record at the local ~~LDC~~ electric utility or otherwise authorized to switch providers;
 - iv. Question and the Customer's acknowledgement that they wish to enroll with the RES for competitive electric service;
 - v. Statement and the Customer's acceptance of each of the principal terms and conditions for the service that will be provided including, but not limited to:
 - (a) Service(s) to be provided;
 - (b) Price for each service being provided;
 - (c) Contract term;
 - (d) Any fees for cancellation prior to contract termination date;
 - (e) Any material limitations, conditions, or exclusions;
 - (f) Any fees or costs to the Customer;
 - (g) If applicable, whether a credit check and/or deposit will be required, including amount of deposit; and
 - (h) Identity of party who will bill for the RES's provider's service(s).
 - vi. Statement and the Customer's acknowledgment that the RES will provide a written contract that details the terms and conditions that were summarized in the telephonic enrollment,
 - vii. For residential Customers a verbal statement and the Customer's acknowledgement that the Customer has 3 business days from the ~~t~~Telephonic ~~E~~enrollment date to rescind the contract without penalty and be placed in its original condition prior to the sale,
 - viii. Statement and the Customer's acknowledgement of the RES's Toll-free number or local number for customer service questions or inquiries.
 - ix. Request and the Customer's provision of the Customer's ~~LDC~~ electric utility account and meter numbers, if applicable;
 - x. Request and the Customer's provision of the Customer mailing and service addresses.
- c. Following Telephonic Enrollment, the RES shall:

- i. Provide to the Customer a written contract that details the terms and conditions summarized in the ~~tTelephone E~~enrollment;
- ii. Retain the audio recording of the ~~Ttelephonic e~~Enrollment for a period of no less than two years.
- iii. Provide, upon request, a copy of a transcription of the audio recording and a copy of the audio recording to the ~~ICC-Commission~~ or its Staff and, if reasonably required, the Customer's ~~LDC-local electric utility upon request~~, within a reasonable time.
- d. ~~All telephonic enrollments, as described above, shall be conducted by an independent Third Party, and such third party shall not market any of the RES's services by providing additional information.~~

INTERNET ENROLLMENT RULES

1. Definitions

- a. "Act" means the Public Utilities Act [220 ILCS 5].
- b. "Alternative retail electric supplier" or "ARES" has the same meaning as in Section 16-102 of the Act [220 ILCS 5/16-102].
- c. "Commission" means the Illinois Commerce Commission.
- d. "Electric utility" has the same meaning as in Section 16-102 of the Act [220 ILCS 5/16-102].
- e. ~~a. — "Retail eElectric Ssupplier (RES)" shall means~~ either: (i) an ~~Alternative Retail Electric Supplier (ARES) certified by the ICC pursuant to Section 16-115 of the Public Utilities Act (220 ILCS 5/16-115),~~ meeting all obligations of ARES pursuant to Section 16-115A of the ~~Public Utilities Act ([220 ILCS 5/16-115A]),~~ and authorized to provide electric power and energy supply services in an ~~LDC's electric utility's~~ service territory; or (ii) an Illinois electric utility ~~as defined in Section 16-102 of the Public Utilities Act (220 ILCS 5/16-102)~~ meeting all obligations provided in Section 16-115A and 16-116 of the ~~Public Utilities Act ([220 ILCS 5/16-115A, 220 ILCS 5/16-116]),~~ other than the ~~LDClocal electric utility~~.
- f. ~~b. — "Retail Gcustomer" or ("Customer)" shall have~~s the same meaning as ~~that stated~~ in Section 16-102 of the ~~Public Utilities~~ Act.
- g. ~~c. — "Internet eEnrollment" means~~ any electronic record of a Customer's authorization to change electric service providers, which satisfies the disclosure requirements of the Letter of Agency prescribed in Section 2EE of the Consumer Fraud and Deceptive Business Practices [815 ILCS 505/2EE].

2. ~~I~~nternet ~~E~~enrollments

- a. For all ~~I~~nternet ~~E~~enrollments, authorization to switch electric service providers shall be obtained by encrypted customer input on a provider's Internet website.
- b. The ~~I~~nternet ~~E~~enrollment website shall at a minimum provide the following:
 - i. Identity of the RES;
 - ii. Question and the Customer's acknowledgement that they are the customer of record at the local ~~LDC~~electric utility or otherwise authorized to switch providers;
 - iii. Question and the Customer's acknowledgement that they wish to enroll with the RES for competitive electric service;
 - ~~xiv.~~ v. A copy of the RES's ~~provider's~~ customer contract including all the terms and conditions of services being provided, which include;
 - (a) Price for each service being provided;
 - (b) Contract term;
 - (c) Any fees for cancellation prior to contract termination date;
 - (d) Any material limitations, conditions, or exclusions;
 - (e) Any fees or costs to the Customer;
 - (f) If applicable, whether a credit check and/or deposit will be required, including amount of deposit; and
 - (g) Identity of party who will bill for the RES provider's service(s).
 - ~~xii.~~ v. A conspicuous statement, within the body of the electronic version of the contract that residential customers may cancel the enrollment within 3 business days of the ~~I~~nternet ~~E~~enrollment.
 - ~~xiii.~~ vi. A prompt for the customer to print or save a copy of the contract.
 - ~~xiv.~~ vii. Any electronic version of the contract shall be identified by a version number, in order to ensure the ability to verify the particular contract to which the customer assents;
- c. Following the ~~I~~nternet ~~E~~enrollment, the RES shall:
 - i. Retain the ~~I~~nternet ~~E~~enrollment for a period of no less than two years.
 - ii. Provide, upon request, a copy of the ~~Internet~~ ~~internet~~ ~~E~~enrollment information to the ~~ICC-Commission~~ or its Staff and, if reasonably required, to the Customer's ~~LDC~~local electric utility, within a reasonable time ~~upon request~~.

WHEREFORE, PE Services respectfully requests that the Administrative Law Judge adopt PE Services' suggested changes in submitting the proposed rule to the Commission for First Notice publication.

Respectfully submitted,

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Service List

PLEASE TAKE NOTICE that on this 3rd day of June 2002 I have filed with the Chief Clerk of the Illinois Commerce Commission, the Initial Comments of Peoples Energy Services Corporation on the Request for Expedited Rulemaking, a copy of which is hereby served upon each of the parties of record in Docket No. 02-0290 by e-mail, U.S. Mail, or personal delivery.

Dated at Chicago, Illinois this 3rd day of June 2002.

By _____
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